

**CRIMINAL CASE NO. 3:99cr046**

**Defendant.**

## ORDER

The Defendant Antonio Lorenzo Covington, proceeding *pro se*, requests a reduction of his sentence due to the substantial assistance provided by his brother to law enforcement following the Defendant's conviction. While acknowledging that only the Government may bring a

<sup>1</sup>The Defendant's letter was addressed to the Honorable Richard L. Voorhees, United States District Judge. Subsequent to the filing of this letter, however, this matter was reassigned to the undersigned on March 26, 2008.

Rule 35 motion, the Defendant argues that his brother “assisted [law enforcement] in reliance upon assurance that his efforts would ensure [sic] to the benefit of me,” and therefore, the Defendant argues, “the equities favor a Rule 35 reduction ....” [Id.].

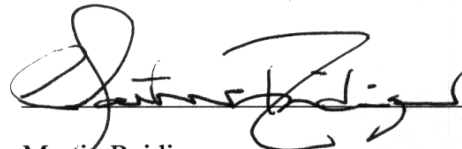
Only the Government may bring a Rule 35 motion for a reduction of sentence. Fed. R. Crim. P. 35(b); United States v. Gibbs, 220 F.R.D. 450, 451 (W.D.N.C.) (“The Government, not a defendant or the Court, makes the initial determination as to whether a defendant has provided substantial assistance after sentencing.”), aff’d, 71 Fed. Appx. 990 (4th Cir. 2003). The Court has the authority to review the Government’s decision not to file a Rule 35 motion only where a defendant has made a “substantial threshold showing” that the Government’s failure to file such motion (1) was in breach of an obligation under the plea agreement or (2) was either based on an unconstitutional motive or was not rationally related to any governmental end. See Wade v. United States, 504 U.S. 181, 183, 112 S.Ct. 1840, 1842, 118 L.Ed.2d 524 (1992).

The Defendant has not alleged any facts that would constitute a substantial threshold showing sufficient to trigger the Court’s review of the Government’s decision not to file a Rule 35 motion in this case.

Accordingly, **IT IS, THEREFORE, ORDERED** that the Defendant's request for relief under Rule 35 [Doc. 34] is **DENIED**.

**IT IS SO ORDERED.**

Signed: April 21, 2008

  
Martin Reidinger  
United States District Judge

